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AMERICAN TRAVELLERS AND THE TREASURY DEPARTMENT.

BY F. W. WHITRIDGE.

MR. GAGE's article in the December number of the REVIEW, on the "Customs Inspection of Baggage," is interesting, not only because it is the fullest defense or explanation of the present administration of the law which has been made, but also because it fails to consider the main reasons why that administration is objectionable. Mr. Gage begins by saying that in this land of freedom our only rule is the impartial and universal law, which should be inexorably enforced on everybody. This is unquestionable and unquestioned; but it is stated as if the same were not equally true of the other lands of freedom, which now include most of the modern world. Having laid down this principle, Mr. Gage goes on to show how it was not observed by the Treasury Department, even during the first four years of his own administration. He says that "one of the greatest evils that existed before, was the wholesale extension of the so-called 'courtesies of the port,'" and he devotes eight pages out of twelve to showing the mischief caused by the granting of such courtesies, and how much good has been accomplished by abolishing them altogether, although he says it was not until March 5th of last year that the Department issued an order abolishing the courtesies of the port, and thus entirely cut off the "old impositions." I have no doubt that "the courtesies of the port" were recklessly issued by the Department and that they were abused, but until I read Mr. Gage's article I had no idea what a disreputable set of people managed, with the connivance of men in public life, to upset the impartial and universal execution of the law. Mr. Gage rightly points with pride to the fact that since the Department has abolished privilege the Government has collected

\$655,000 instead of \$152,000 in seven months alone. That is not a very large item in the revenues of the Government; it costs a good many votes and a good deal of money to collect it; but while the law is as it is, of course the duties ought to be collected.

It should be remembered, however, that the "courtesies of the port" not only protected the smuggling friends of officials, but also made up for the absence of a certain amount of common sense among those officials by furnishing a means of identification for a number of reputable people, and preventing them from being treated as if they were of doubtful character; and now that the courtesies are abolished, the Department ought either to furnish the common sense, or provide some other substitute. For it must be said that the Treasury Department's theory in administering the law is not only that everybody should be treated alike, as Mr. Gage asserts, but also that everybody should be treated as one of the worst of men, instead of one of the best. Now, the true theory, which prevails in most civilized lands, is that everybody should be treated like a gentleman, until he does something to justify his treatment as presumably a felon.

I remember two instances where the courtesies of the port were thus useful. I myself arrived in New York some years ago, with three small children, on a cold, wet day in November. As soon as possible, I went to the end of the dock to send the children with their maids to my house in the city of New York. The gatekeeper, with that rough finality which one hears in this land of freedom more often than is pleasant, waved me back, saying: "You can't leave the dock until your trunks are through." While I was attempting to reason with him, another man came up and cried out to the gatekeeper: "Garn, let him alone; de courtesies is on the desk." So my children went home, and I returned to submit my belongings to inspection. On another occasion, a gentleman living in New York, a man of the highest standing, who might fairly suppose himself to be well known, arrived at that port, and after his baggage had been examined, and the duties found to amount to a considerable sum, more than a man usually carries with him, he proposed to draw his check on a city bank in payment. The authorities declined to receive his check, and said his trunks must go to the public stores. As, however, he had the courtesies of the port, they finally agreed to accept his check if Mr. Barney Biglin, who at that time had the express

contract with the Government, would endorse it. Now, Barney Biglin is, or was, a good man. I employed him and his brother once on a time to train a college crew, and that crew won the race. But this person might well have felt annoyed at having to ask Mr. Biglin, whom he had never employed in any capacity, to endorse his check. Now, suppose there had been no courtesies of the port in those days. My children would have caught deathly colds, my friend's baggage would have gone off to the public stores, and both of us would probably have had our tempers permanently injured.

Mr. Gage enforces his point that his order of March 5th has produced a condition with which travellers are satisfied, by a number of stories and instances as to the evils of the old system and as to the workings of the new system, which are surprising. One story about a gentleman who exposed his wife to the indignity of having her person searched on the dock ought to be mentioned, for it is not a pretty story, and it reflects no credit on the gentleman, the lady, or the Custom House. It is a singular fact that a story similar to Mr. Gage's in every detail, except that it locates the extraordinary occurrence at Dover instead of New York, has been current in England for a dozen years or more. Is it possible that it has been smuggled over from that country?

Mr. Gage's argument that the present condition of things is shown to be satisfactory by the fact that the Treasury Department does not now receive as many complaints as it received while the courtesies of the port existed, is even more surprising than his stories. There is a very different explanation of that circumstance. It is that people who used to complain have given up the Department as a bad job. The fatuous character of some of the replies written by the Department, its failure to answer many complaints at all, and the permission granted by it to a private association of second-class* retail shopkeepers to place spies on the dock in New York with every facility to overlook the examination of passengers' clothes, have convinced a large number of habitual travellers that appeals to it are perfectly hopeless. In my own acquaintance I know two people who go abroad every year, who are perfectly prepared to pay duties and to conform to any reasonable regulation, who have found the Department such

* I use the expression "second-class" in no invidious sense, but in the trade sense, as defining the credit, capital and class of goods sold by these shopkeepers.

a nuisance that they now keep nearly a complete set of personal effects in Europe rather than be bothered as they have been bothered when they came back. So, also, a very considerable number of people no longer travel with their baggage, but send a large part of it ahead of them by express, and employ custom-house brokers to get it for them. I arrived, for instance, last spring, and the four or five largest families on the ship had all sent on their heavy baggage in that manner; and yet one lady, who happened to be the wife of a very rich man, and who had thus sent her baggage forward and actually arrived with a comparatively small amount, was kept on the dock for five and a half hours, either because the inspectors thought she had a suspiciously small amount of baggage, or, more probably, because they wanted to demonstrate the impartiality of the Department's administration of the universal law by treating a rich person considerably worse than they would have treated a poor one.

It must not be concluded, therefore, that travellers are very generally convinced of the justice of the Government's course, or that they are pleased with the administration of the customs, or that they think well of it, merely because the Department no longer receives as many protests as it used to receive. It does not receive some, at least, of those protests because the people who used to write them are satisfied that the Department and its officials are inaccessible to reason, insensible to the misery of their fellow-men, and deaf to the sound of derision.

Before leaving the subject of the courtesies of the port and the consequences of their abolition, it must be pointed out that Mr. Gage is in error when he says that the abuses he recites were cut off by the order of "March 5th of this year." As a matter of fact, the identical order which he quotes was issued on December 18th, 1898. It appears on page 999 of Volume II. of the Treasury Decisions for 1898, published at the Government Printing Office; so a good deal of Mr. Gage's argument and many of his instances must fall to the ground. It is at least possible that the increase in the collections for the seven months ending September 30th was in part at least caused by the largely increased purchases of the returning Americans in this *annus mirabilis* of our national prosperity.

Mr. Gage barely touches on the real basis of what he calls "the utterly unreasonable comments" on the Department. He says:

"The complaint is made in some of the newspapers that a passenger is first asked to swear in his declaration to the contents of his baggage, and then, in despite of his oath, he is searched like a criminal when he is on the dock. The passenger is simply required to do what every importer of merchandise must do under the law. There is no difference between the Custom House on the dock and the regular Custom House through which merchandise is passed. In the eyes of the law they are identical. It is rather absurd, therefore, to question the procedure of examination as regards the baggage of incoming passengers, when no one has ever dreamed of questioning the same regulations when applied to the goods of an importer.

"It is true that the law, so far as the baggage is concerned, is permissive and not mandatory; and if the experience of the department had not been such as to make it necessary to enforce a search, there would not to-day be the stringent enforcement that is found at the steamship docks."

And in the beginning of his article he says: "The customs officials are simply enforcing the law as it appears on the statute books, without fear or favor." I, and those for whom I write, have no complaint to make of the law. We are law-abiding people, ready to pay whatever duties the law prescribes, nor have we much reason to complain of the manner of collecting the duties, at least at the port of New York. I have always found the officials reasonable, obliging and efficient; and I have never had any difficulty, except upon one occasion when a special agent insisted upon knowing why my family and myself had our own baggage, and did not have some other kind or quantity—but, then, he was tipsy. Nevertheless, it must be confessed that the present law—which makes personal effects, generally, dutiable and provides that no more than \$100 in *value* of articles purchased abroad by residents of the United States shall be admitted free of duty—is vexatious. It certainly does not conform to the general principles laid down by Mr. Gage as to what the law ought to be, for it discriminates against American citizens who travel for a short time; and it sometimes works great hardship, as in the case of the lady all of whose things were destroyed in the siege of the legation at Pekin, and who had to pay duty on everything she had bought to come home in. The law was enacted, moreover, under a complete misapprehension of what its effect would be. The tailors who got it up persuaded Mr. Dingley that it would produce a revenue of \$10,000,000 annually (he so stated in the House of Representatives), and they persuaded themselves that it would largely increase their sales—both of which notions were and are absurd.

What reasonable people complain of is not the law, or its enforcement; it is the regulations of the Treasury Department and its decisions, and the reasons given for these decisions. I am afraid these may be numbered among the "utterly unreasonable" comments, but let the Treasury Department consider these observations:

1. The regulations for roping off part of the dock and keeping the passengers in on one side of the ropes and their friends on the other are absolutely without warrant of law. The owners of the docks might do that, but where is the statute which permits the Department to do it? This regulation has turned out to be much less important than it promised to be; and it need not be discussed, because by common consent nobody now pays any more attention to it than is convenient.

2. The regulations as to the declarations of passengers in respect to their baggage are foolish, because they call on Americans returning home to do an impossible thing. Every America-bound steamer on the Atlantic is flooded with circulars, "By order of the Secretary of the Treasury," which read:

"It will be necessary for you to make a declaration before the United States custom officer in the saloon of this vessel, stating the number of your trunks and other packages, and their contents; and residents of the United States returning from abroad should provide a detailed list of articles purchased abroad and the prices paid therefor."

The form of affidavit American passengers are required to make says, among other things:

"That all the articles in my baggage or on my person, purchased abroad, and their cost prices paid by me or by others who have entrusted them* to me, are fully set forth and described in the annexed entry."

Either that means what it says, or it is meaningless; and I think it is obvious that to enable returning Americans to comply with that regulation and to make that affidavit truthfully, every man, woman and child of them must have had hung around his or her neck while abroad an automatic cash register, which recorded not only the amount of their purchases but a description of the articles purchased; or they must have been furnished with some equivalent device. But there are no such devices and there are no such Americans; and it is safe to say that, whatever our dispositions in the matter may be, not one person in a million *can* comply with these regulations of the Treasury Department, which

were apparently made without any consideration of the manners and customs of the people whose conduct they undertake to regulate, and it would seem as if only the minimum of common sense was necessary to show that they should be changed.

3. The regulations requiring every piece of baggage to be opened and searched were not contemplated by the statute; and such regulations cannot be, and are not, complied with; and they are, moreover, offensive. The statutes under which these regulations were made are sections 2799, 2800, 2801 and 3064 of the United States Revised Statutes. The first three of these sections were enacted in 1799, the fourth in 1866. They are clearly permissive statutes only, a fact which the Department apparently did not discover until last summer. I think most lawyers would agree that the Department had gone beyond the intentions entertained by the legislature when these statutes were enacted, respectively 100 and 40 years ago. The exact phraseology of these regulations I do not know; but from the statements of the inspectors on the docks, their orders appear to be to open every piece of a passenger's baggage and to examine everything in it. In fact, that is not done, it cannot be done; and I do not see why it should be pretended that it is done. Take, for instance, a ship with 500 passengers. They will each have, say, five pieces of baggage, or 2,500 pieces in all, and they will have taken, at least two hours each in their packing. So, altogether it will have taken the 500 passengers 1,000 hours to pack. Now, if their trunks are to be unpacked, inspected and repacked on the dock, which would be necessary if the search were a search, on an "impartial, universal and inexorable" principle, how long would it take the inspectors to do the job? Moreover, the mere attempt to make such a search after the declaration demanded by the Department's first regulation is offensive. We make our affidavits as to what we have; then the Department has us searched to see if we have committed perjury; and then we are told that we ought not to object, because we are only required to do what importers of merchandise have to do. But we are not such importers. There is ground under the statutes for considering all travellers as importers, but there is equally good ground under the statutes for making the distinction between ordinary travellers and importers which everybody on earth, outside the Treasury in Washington, knows to exist. I have said this regulation is offensive. It is;

but there can be no argument about such a matter. It is a question of perception, like color; either a man sees it, or he is color-blind.

4. The correspondence and decisions of the Treasury Department in respect to these regulations are discreditable to the Government. No one can read them without coming to that conclusion. But to take one or two instances. A correspondence appeared in the New York *Evening Post* three years ago, from which it appeared that the regulation requiring passengers to present an inventory of their purchases abroad was pointed out to the Department as being quite impracticable; that though the statute under which it was made had been in force since 1799, nothing of the kind had ever before been required. The Department stolidly answered that the regulation had been made under the statute "in the ordinary course" of the business of the Department; and when asked how it had taken a hundred years to get round to this particular regulation, the Department was dumb. The next instance is found at page 849 of the Treasury Decisions, 899, Volume I., and is in the form of a letter from the Assistant Secretary of the Treasury to the Collector of Bangor, Maine. It says:

"You inquire first as to the right of residents of the United States to import, free of duty, personal effects to the amount of \$100 in cases where they cross the border for a temporary stay of two or three days.

"In reply to your first inquiry, I have to state that the law is silent as to the length of time a resident of the United States shall stay abroad to be entitled to the privilege. . . . Each case must be treated on its merits, and no duty levied on goods of a value of \$100 or less, purchased abroad by residents of the United States, even though their stay abroad may have been of short duration, unless it shall appear that the resident went abroad for the chief purpose of *purchasing articles of wearing apparel at a less price than that at which the articles could be procured in the United States, and that it was not his or her first offense.*"

The purchase of wearing apparel abroad by an American, cheaper than he can buy at home, is in the eyes of this gentleman an offence. There has been nothing like that since a Secretary of the Treasury decided that it was unreasonable for an American citizen to have more than seven shirts; and it is almost as bad as the case which occurred last summer, in which a reputable business man living in Philadelphia, on his return to the United States, was sent to Ellis Island, with \$10,000 in his pocket, as

likely to become a public charge because he had lost an arm or hand.

5. I am informed that these regulations were promulgated by the authorities of the Department after they had consulted the officials in actual charge of the collection of duties at all or some of the principal ports, and that the advice of those practical men was entirely disregarded in framing the regulations. Be that as it may, very many of the people in the employ of the Treasury share the views I have ventured to express.

Let me add that if these observations appear "utterly unreasonable" or disrespectful, which I should regret, they are, none the less, the views of the overwhelming majority of American citizens who travel; and they are held, though not expressed, by a very large number of staunch protectionists and loyal Republicans.

F. W. WHITRIDGE.